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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,313	02/28/2002	David Kammer	PALM-3749.US.P	2769

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EXAMINER	
JEAN GILLES, JUDE	
ART UNIT	**PAPER NUMBER**
2143	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/086,313	KAMMER ET AL.	
	Examiner	Art Unit	
	Jude J. Jean-Gilles	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This Action is in regards to the Reply received on 12/01/2006.

Response to Amendment

1. This action is responsive to the application filed on 12/01/2006. Claims 1-6, and 12-23 have been amended. Claims have been canceled herein. No claims have been added or cancelled. Therefore claims 1-27 are now pending in the application, and represent a method and apparatus for a "**METHOD FOR INTELLIGENTLY SELECTING A WIRELESS COMMUNICATION ACCESS POINT**".

Response to argument

2. Applicants' arguments in the Previous Rejection with respect to **claims 2-6, 10-11, 13-17 and 21-22** which were objected to as being dependent upon a rejected based claim and would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims are deemed moot in view of the grounds of rejection below. In light of the prior art references resulting from an updated search, the Examiner respectfully withdraws the allowability of those claims and maintain the rejection of independent claims 1, 12, and 23.

In response to Applicant's arguments, 37 CFR § 1.11(c) requires applicant to "clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must show the amendments avoid such references or objections."

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 1-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinonen et al (hereinafter Heinonen) U.S. Patent No. 7,151,764 B1 in view of Clark U.S. Pub. No. 2001/0011254 A1.

Regarding claim 1: Heinonen discloses the invention substantially as claimed. Heinonen teaches a method of connecting to a wireless communication access point (fig. 1) comprising:

a) an initiator device broadcasting a first wireless message to a plurality of potential access point devices, said initiator device storing therein a list of recognized device addresses for connecting thereto (fig. 4A-C; column 13, lines 60-67; column 14,lines 1-30; *Note that the first message is the inquiry package 500*);

b) in response to said initiator device broadcasting said first wireless message, said initiator device receiving a plurality of second wireless messages from a set of said plurality of potential access point devices, wherein said set of said plurality of potential access point devices is defined by at least one physical

characteristic (column 13, lines 60-67; column 14,lines 1-30; *the second wireless message here is the inquirey packet 510; and the one physical characteristic here is either the access in the address field 520 or the CoD value in the device field 522*);

c) said initiator device comparing device addresses of said plurality of second wireless messages for address matches with said list of recognized device addresses (column 9, lines 25-50);

e) connecting to an access point device corresponding to said single address (column 9, lines 25-50); however Heinonen does not disclose in details the step of: d) applying a fitness function to address matches of said c) to determine a single address, wherein said fitness function defines an acceptable criteria for determining said single address.

In the same field of endeavor, Clark discloses an"... *Software object 61, upon receipt of communication 60 from software object 59, acts to select N instruction sequences 298 sorted by fitness (discussed below), remove them from the Original Software 9 (creating Modified Software 7), and send/communicate 13 the removed instruction sequences 298 to the License Server 4. Detail of the operation of software object 61 is depicted in FIG. 9. The number N can be chosen to reflect the level of security desired. The fitness of an instruction sequence 298 is determined by matching the inputs and outputs recorded by software objects 125 and 126 from both execution #1 and execution #2 of the Original Software 9. The fitness (or security) of an instruction sequence 298 is equal to the number of input matches with corresponding output*

differences plus the number of input differences..." [*see Clark; fig. 9, item 196; Par. [0325*].

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Clark's teachings of using dynamic and static members within the nested group members with the teachings of Heinonen, for the purpose of improving the ability of a network "*...to provide security and reliability to the system as stated by Clark*"(see [0325]). By this rationale, **claim 1** is rejected.

Regarding claims 2-27, the combination Heinonen – Clark discloses:

2. (Currently Amended) The method as described in Claim 1 wherein set of said physical characteristic is defined by a quantity of device threshold (see Heinonen; column 13, lines 60-67; column 14,lines 1-30).

3. (Currently Amended) The method as described in Claim 1 wherein set of said physical characteristic is defined by a time of discovery threshold (see Heinonen; column 7, lines 24-62; column 14, lines 1-30).

4. (Currently Amended) The method as described in Claim 1 wherein said criteria is an occupancy level less than a predetermined threshold (see Heinonen; column 7, lines 24-62; column 14, lines 1-30).

5. (Currently Amended) The method as described in Claim 1 wherein said criteria is signal strength greater than a predetermined threshold(see Heinonen; column 7, lines 24-62; column 14, lines 1-30).

6. (Currently Amended) The method as recited in Claim 1 wherein

said criteria is residing within a predetermined physical distance (see Heinonen; column 5, lines 53-67; column 13, lines 60-67; column 14,lines 1-30;).

7. (Original) The method as recited in Claim 1 wherein said initiator device and said responding device are Bluetooth-enabled devices (see Heinonen; items 100, 140 and 180; column 5, lines 53-67).

8. (Original) The method as recited in Claim 1 wherein said access point device is coupled to a network comprising a network server (see Heinonen; items 100, 140 and 180; column 5, lines 53-67).

9. (Original) The method of Claim 8 wherein a list of all current network access point addresses is maintained on said network server (see Heinonen; items 100, 140 and 180; column 5, lines 53-67).

10. (Original) The method as recited in Claim 9 wherein said list of access point addresses of c) is compared to said list of current network access point addresses, any differences being updated within said list of access point addresses in said memory cache of said initiator device (see Heinonen; column 9, lines 25-50).

11. (Original) The method of Claim 9 wherein said initiator device abstracts said list of access point addresses into a single abstract name (see Heinonen; column 13, lines 60-67; column 14,lines 1-30).

12. (Currently Amended) A wireless communication device (see Heinonen; fig. 1A-C, 2A) comprising:

a bus (see Heinonen; fig. 1A-C, 2A);

a wireless transceiver unit coupled to said bus for communicating with responding devices (see Heinonen; fig. 1A-C, 2A);

a memory cache coupled to said bus (see Heinonen; fig. 1A-C, 2A); and

a processor coupled to said bus, said processor for performing a method for selecting and connecting to a responding access point device (see Heinonen; fig. 1A-C, 2A), said method comprising:

a) an initiator device broadcasting a first wireless message to a plurality of potential access point devices, said initiator device storing therein a list of recognized device addresses for connecting thereto (see Heinonen; fig. 4A-C; column 13, lines 60-67; column 14,lines 1-30; *Note that the first message is the inquiry package 500*);

b) in response to said initiator device broadcasting said first wireless message, said initiator device receiving a plurality of second wireless messages from a set of said plurality of potential access point devices, wherein said set of said plurality of potential access point devices is defined by at least one physical characteristic (see Heinonen; fig. 4A-C; column 13, lines 60-67; column 14,lines 1-30);

c) said initiator device comparing device addresses of said plurality of second wireless messages for address matches with said list of recognized device addresses (see Heinonen; column 9, lines 25-50);

d) applying a fitness function to address matches of said c) to determine a single address, wherein said fitness function defines an acceptable criteria for determinin.q said sinqle address [see Clark; fig. 9, item 196; Par. [0325]; and

e) connecting to an access point device corresponding to said single address(column 9, lines 25-50);

13. (Currently Amended) The method device as described in Claim 12 wherein set of said physical characteristic is defined by a quantity of device threshold.

14. (Currently Amended) The method device as described in Claim 12 wherein set of said physical characteristic is defined by a time of discovery threshold (see Heinonen; column 7, lines 24-62; column 14, lines 1-30).

15. (Currently Amended) The method device as described in Claim 12 wherein said criteria is an occupancy level less than predetermined threshold (see Heinonen; column 7, lines 24-62; column 14, lines 1-30).

16. (Currently Amended) The device as described in Claim 12 wherein said criteria is signal strength greater than a predetermined threshold(see Heinonen; column 7, lines 24-62; column 14, lines 1-30).

17. (Currently Amended) The method device as recited in Claim 12 wherein said criteria is residing within a predetermined physical distance (see Heinonen; column 5, lines 53-67; column 13, lines 60-67; column 14,lines 1-30).

18. (Currently Amended) The method device as recited in Claim 12 wherein said initiator device and said responding device are Bluetooth-enabled devices (see Heinonen; items 100, 140 and 180; column 5, lines 53-67).

19. (Currently Amended) The method device as recited in Claim 12 wherein said access point device is coupled to a network comprising a network

server (see Heinonen; items 100, 140 and 180).

20. (Currently Amended) The method device of Claim 19 wherein a list of all current network access point addresses is maintained on said network server (see Heinonen; items 100, 140 and 180).

21. (Currently Amended) The method device as recited in Claim 20 wherein said list of access point addresses of c) is compared to said list of current network access point addresses, any differences being updated within said list of access point addresses in said memory cache of said initiator device (see Heinonen; column 9, lines 25-50).

22. (Currently Amended) The method device of Claim 20 wherein said initiator device abstracts said list of access point addresses into a single abstract name (see Heinonen; column 13, lines 60-67; column 14,lines 1-30).

23. (Currently Amended) In a wireless communication device having a wireless transceiver and a memory cache comprising a list of access point addresses, a method for updating said list of access point addresses comprising:

a) connecting said wireless communication device with a network server, said network server comprising a list of current network access point addresses for a network(see Heinonen; fig. 4A-C; column 13, lines 60-67; column 14,lines 1-30);

b) comparing said list of access point addresses on said memory cache to said list of current network access point addresses (see Heinonen; column 9, lines 25-50);

c) in response to said comparing, adding to said list of access point addresses in said memory cache of said wireless communication device any addresses found on said list of current network access point addresses and not found on said list of access point addresses(see Heinonen; column 9, lines 25-50); and

d) in response to said comparinq, deleting from said list of access point addresses in said memory cache of said wireless communication device any addresses not found on said list of current network access point addresses and found on said list of access point addresses [see Clark; fig. 9, item 196; Par. [0325].

24. (Original) The method as recited in Claim 23 wherein said wireless communication device is a Bluetooth-enabled device (see Heinonen; items 100 and 140).

25. (Original) The method as recited in Claim 23 wherein connecting said wireless communication device with a network server comprises connecting through an access point (see Heinonen; item 180);

26. (Original) The method as recited in Claim 23 wherein said access point is a Bluetooth enabled device (see Heinonen; items 100, 140 and 180).

27. (Original) The method as recited in Claim 23 wherein said wireless communication device is a portable computer system (see Heinonen; column 5, lines 53-67; column 13, lines 60-67).

Conclusion

5. **THIS ACTION IS MADE NON-FINAL**. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-9000.

Jude Jean-Gilles

Patent Examiner

Art Unit 2143

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SUPERVISORY PATENT EXAMINER
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JJG

February 09, 2007